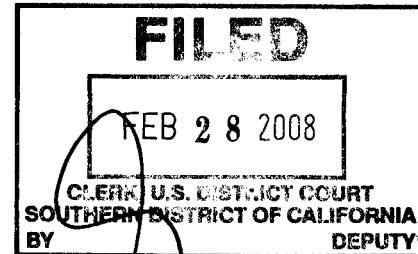


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12 UNITED STATES OF AMERICA



13 UNITED STATES DISTRICT COURT

14 SOUTHERN DISTRICT OF CALIFORNIA

15 UNITED STATES OF AMERICA,

16 *08 CR 566 WQH*  
Magistrate Case No. 08MJ0427

17 Plaintiff,

18 v.

19 JORGE GUARDADO (1),

20 Defendant.

21 **STIPULATION OF FACT AND JOINT  
MOTION FOR RELEASE OF  
MATERIAL WITNESS(ES) AND  
ORDER THEREON**

22 **(Pre-Indictment Fast-Track Program)**

23 **IT IS HEREBY STIPULATED AND AGREED** between the plaintiff, UNITED STATES  
24 OF AMERICA, by and through its counsel, Karen P. Hewitt, United States Attorney, and  
25 Douglas Keehn, Assistant United States Attorney, and defendant JORGE GUARDADO, by and  
26 through and with the advice and consent of defense counsel, Stephen D. Demik, Federal Defenders  
27 of San Diego, Inc., that:

28 1. Defendant agrees to execute this stipulation on or before the first preliminary hearing  
date and to participate in a full and complete inquiry by the Court into whether defendant knowingly,  
intelligently and voluntarily entered into it. Defendant agrees further to waive indictment and plead  
guilty to the pre-indictment information charging defendant with a non-mandatory minimum count  
of Bringing in Aliens Without Presentation and Aiding and Abetting, in violation of 8 U.S.C.  
§ 1324(a)(2)(B)(iii) and 18 U.S.C. § 2.

29 //

30 WDK:psd:2/15/08

1           2.    Defendant acknowledges receipt of a plea agreement in this case and agrees to  
2 provide the signed, original plea agreement to the Government not later than five business days  
3 before the disposition date set by the Court.

4           3.    Defendant agrees to plead guilty to the charge pursuant to the plea agreement on or  
5 before **March 17, 2008**.

6           4.    The material witness, Mario Maganda-Salas, in this case:

7           a.    Is an alien with no lawful right to enter or remain in the United States;  
8           b.    Entered or attempted to enter the United States illegally on or about  
9 February 13, 2008;

10           c.    Was found in a vehicle driven by defendant at the Otay Mesa, California Port  
11 of Entry (POE) and that defendant knew or acted in reckless disregard of the fact that he was an alien  
12 with no lawful right to enter or remain in the United States;

13           d.    Was paying \$200 for gas and an additional unknown amount once he was  
14 smuggled successfully to others to be brought into the United States illegally and/or transported  
15 illegally to his destination therein; and,

16           e.    May be released and remanded immediately to the Department of Homeland  
17 Security for return to his country of origin.

18           5.    After the material witnesses are ordered released by the Court pursuant to this  
19 stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any  
20 reason, or thereafter withdraws his guilty plea to that charge, defendant agrees that in any proceeding,  
21 including, but not limited to, motion hearings, trial, sentencing, appeal or collateral attack, that:

22           a.    The stipulated facts set forth in paragraph 4 above shall be admitted as  
23 substantive evidence;

24           b.    The United States may elicit hearsay testimony from arresting agents  
25 regarding any statements made by the material witness(es) provided in discovery, and such testimony  
26 shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against interest  
27 of (an) unavailable witness(es); and,

5       6. By signing this stipulation and joint motion, defendant certifies that defendant has  
6 read it (or that it has been read to defendant in defendant's native language). Defendant certifies  
7 further that defendant has discussed the terms of this stipulation and joint motion with defense  
8 counsel and fully understands its meaning and effect.

9       Based on the foregoing, the parties jointly move the stipulation into evidence and for the  
10 immediate release and remand of the above-named material witness(es) to the Department of  
11 Homeland Security for return to his country of origin.

12 It is STIPULATED AND AGREED this date

Respectfully submitted,

KAREN P. HEWITT  
United States Attorney

DOUGLAS KEEHN  
Assistant United States Attorney

STEPHEN D. DEMIK  
Defense Counsel for GUARDADO

JORGE GUARDADO  
Defendant

Dated: 2/27/08

Dated: 2/21/08

Dated: 2/21/08.

Stipulation of Fact and Joint Motion for Release of  
Material Witness(es) And Order Thereon in  
United States v. Jorge Guardado (1)

## ORDER

2 Upon joint application and motion of the parties, and for good cause shown,

3 THE STIPULATION is admitted into evidence, and,

4 **IT IS ORDERED** that the above-named material witness(es) be released and remanded  
5 forthwith to the Department of Homeland Security for return to his country of origin.

6 | SO ORDERED.

8 || Dated:

02/08/08

  
D. Stoll  
United States Magistrate Judge

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Stipulation of Fact and Joint Motion for Release of  
Material Witness(es) And Order Thereon in  
United States v. Jorge Guardado (1)